

1. What is the appropriate cross over point between enterprise and mass-market customers?
2. What type of procedures should be developed to conduct continued reviews for the unbundled loops, transport and switching under ¶¶ 340, 418, 526 and 534 of the *Triennial Review Order*? Should the procedures include a notification requirement?

II. ORDER OF PROCEDURE

The Parties agree to proceed as set forth below and in accordance with the Schedule of Proceedings in Section IV.

Issue 1.

A. TESTIMONY AND CROSS-EXAMINATION. All testimony shall be in writing. Cross-examination of any witness shall be limited to one attorney for a Party or participant. The Parties shall avoid duplicate or repetitious cross-examination. There shall be no friendly cross-examination. Recross-examination of a witness shall be limited to the material covered in redirect examination unless otherwise permitted by the Chairman. All written testimony, including exhibits of witnesses, shall be submitted upon paper 8-1/2 x 11 inches in size, with lines numbered, and shall be served on dates designated in the Schedule of Proceedings. When filing any testimony, the Parties shall simultaneously provide all workpapers and supporting documents as part of the testimony. The testimony and exhibits shall include appropriate footnotes or narratives setting forth the information depicted, explaining details, and the methods employed in preparing any statistical computations and estimates. Each Party may follow its own numbering system for written testimony and exhibits, provided the numbering system utilized is consistent and clearly understandable. The Parties shall prepare a table listing

each written testimony, and each exhibit by title, and identifying the witness sponsoring the testimony and the exhibit. The exhibit number and the docket number of the proceeding shall be shown in the upper right-hand corner of each page. Each exhibit shall be submitted on a separate page. A Party introducing new matters to its written testimony and exhibits during the hearing, whether by way of revisions or supplements shall attach a sworn affidavit explaining why these matters were not originally submitted. The Commission may, if the explanation is unreasonable, reject the amended testimony or exhibits.

B. WITNESSES. Witnesses submitting written testimony and exhibits shall be made available for cross-examination at the hearing. Witnesses may have the work papers used in preparing the evidence they sponsor available at the hearing. Witnesses will not be permitted to read prepared testimony at the hearings. Witnesses who will present oral direct or rebuttal testimony must present said testimony at the same time. In the presentation of the testimony, each witness may give a brief summary of the testimony and exhibits and shall summarize the issues raised by such testimony. Each witness shall be subject to cross-examination for direct and/or rebuttal testimony and exhibits. The Parties in this case should cooperate to accommodate the schedules of any mainland witnesses and should inform the Commission in advance of any scheduling difficulties of mainland witnesses. If any Party has any objection to scheduling a witness in advance of other witnesses, the Party should make a timely objection to the Commission.

C. ADMISSIONS OF FACT AND MATTERS OF PUBLIC RECORD. Documents identified as matters of public record may be offered as evidence to avoid unnecessary proof and to facilitate these proceedings. The following documents may be identified as matters of public record: (1) public financial reports, tariffs, previously submitted written testimonies and exhibits filed with this Commission and the Department of Commerce

and Consumer Affairs; (2) published decisions issued by state and federal agencies; (3) published scientific or economic statistical data, material and textbooks and technical or industrial journals; and (4) specified parts of the official record of previous proceedings of this Commission. The matter intended to be offered as evidence must be clearly identified by reference to the date and place of publication and the file or docket number. The identified document must be available for inspection by the Parties. Parties shall have the right to explain, qualify or conduct cross-examination with respect to the identified material. The Commission will rule on whether specified and identified material can be admitted into the evidence when a Party proffers such material for admission as evidence. From time to time, the Parties may enter into stipulations that material, meeting the above criteria, or any portion of such material may be introduced into evidence.

Issue 2. This issue shall be addressed solely in briefs, if the Parties are unable to submit a stipulated plan.

III. COPIES OF FILINGS

Copies of all filings shall be filed with the Commission and served on each Party as follows:

Commission	Original + 8 copies
Consumer Advocate	2 paper and one electronic copy
All other Parties	1 paper and one electronic copy

Each Party shall provide copies of its filings to the other Parties on an expedited basis. This means that, where practicable, copies of the filings should be sent to the other Parties via e-mail in a standard electronic format that is readily readable by the Parties. If service is to or from an off-island (Oahu) location, the serving Party shall send a copy of the filing via express delivery. Each Party must provide electronic addresses for e-mail purposes to the other Parties. All Parties

shall prepare electronic copies of workpapers, documentation or exhibits attached to their filings unless the preparation of such exhibits is not practical (i.e., the scanning of an entire book). In addition, all Parties shall submit an electronic copy of each filing to the Commission's general electronic mail address at Hawaii.PUC@hawaii.gov for up-loading on to the Commission's website.

IV. SCHEDULE OF PROCEEDINGS

The Parties shall adhere to the following schedule of proceedings:

January 12, 2004	Parties file the Stipulated Prehearing and Protective Orders.
January 26, 2004	Parties serve IRs on each other.
February 2, 2004	Objections to any IR due.
February 9, 2004	Responses to IRs due.
February 23, 2004	Direct testimony due.
March 1, 2004	Parties serve IRs on each other.
March 8, 2004	Objections to any IR due.
March 15, 2004	Responses to IRs due.
March 29, 2004	Rebuttal testimony due.
April 5, 2004	Parties serve IRs on each other. Requests for hearing, if any, due ³
April 12, 2004	Objections to any IR due. Objections to requests for hearing, if any, due
April 19, 2004	Responses to IRs due. The Parties ask that the Commission issue its decision on hearing request, if any. (The Parties request that the Commission provide at least two weeks notice of any hearing to allow for preparation and the scheduling of witnesses.)
At the call of the Commission, if required	Hearing, if required (no more than two days).
If no Party requests a hearing, May 17, 2004; If a Party requests but is denied a hearing, four weeks after the Commission denies the request, or June 2, 2004, whichever is earlier; or If a hearing is held, June 2, 2004.	Briefs

³ Verizon does not believe that any hearings are necessary.

V.
REQUESTS FOR INFORMATION

The Parties agree that the number of information requests ("IRs") that each Party may ask another Party shall be limited to 25 for the proceeding. This means that, for example, Verizon may ask AT&T a total of 25 IRs in the proceeding, MCI a total of 25 IRs in the proceeding, and so forth. The 25 IRs in the proceeding may be allocated to the various rounds of IRs at the discretion of the requesting Party. Each subpart to an IR shall be counted as one IR for purposes of the 25 limit. For example, an IR that requests a Party to explain how it arrived at a particular conclusion and to provide documentary support for that conclusion would be counted as two IRs. Any Party may file a motion for permission from the Commission to ask additional IRs, if necessary, unless an agreement can be reached among the Parties to raise the 25 IR limit. Copies of all IRs and responses shall be served on all Parties.

Subject to the limitation that each Party may ask only a total of 25 IRs of another Party for the proceeding, a Party may submit IRs to another Party within the time schedule specified in this Prehearing Order. After the scheduled date for submitting IRs has passed, no additional requests for information shall be allowed except upon stipulation by the Parties or by approval of the Commission upon good cause shown. The Parties shall use their best efforts to serve all IRs and responses by electronic means. Electronic service of responses shall be deemed timely made if sent no later than 4:30 p.m. HST on the date due.

In responding to an IR, a Party shall not be required to provide data that is already on file with the Commission or otherwise identified as a matter of the public record. The responding Party shall provide the docket number and filing date or other identifying information to the requesting Party. A Party shall not be required to recalculate, trend, reclassify or otherwise rework data contained in its files, unless otherwise ordered by the Commission.

A Party may object to responding to an IR seeking information that it deems irrelevant, immaterial, unduly burdensome, onerous, or repetitious, or otherwise claimed to be privileged or subject to protection (confidential information). If a Party claims that information requested is privileged or confidential, and withholds production of all or a portion of such privileged or confidential information, the Party shall: (1) provide information reasonably sufficient to identify the privileged or confidential information withheld from the response, without disclosing privileged or protected information; (2) state the basis for withholding the privileged or confidential information (including, but not limited to, the specific privilege applicable or protection claimed for the confidential information and the specific harm that would befall the Party if the information were disclosed); and (3) state whether the Party is willing to provide the privileged or confidential information pursuant to the protective order.

Parties seeking production of documents notwithstanding a Party's claim of privilege or confidentiality may file a motion to compel production with the Commission.

Subject to objection, responses to the IRs of the Party may be introduced into evidence.

The Parties are encouraged to meet informally to work out problems with respect to understanding the scope or meaning of an IR or with respect to the availability of information. If a Party is unable to provide the information within the time specified in the Schedule of Proceedings, it should so indicate to the inquiring Party as soon as possible, and the Parties shall endeavor to agree upon a later date.

Responses to IRs that would require the reproduction of voluminous documents or materials may be made available for reasonable inspection and copying at a designated location. In the event such information is available on computer diskette or other readily available electronic medium, the Party responding to the information request may make available the diskette or other readily available electronic medium to all Parties and the Commission.

The responses of each Party shall adhere to a uniform system of numbering. For example, a Verizon response to an IR from AT&T shall be designated "VZ Response to AT&T-IR- ."

To the extent that any response to an IR is believed to be non-responsive or incomplete, the requesting Party shall first contact the responding Party to informally discuss the matter in an effort to determine the basis for the response. If, despite such efforts, the Parties are unable to reach a resolution on the matter, the requesting Party may file a motion to compel a response from the responding Party. The moving Party may request the Commission to either (a) modify the schedule of proceeding to accommodate for the delay due to the actions of the non-responsive Party or (b) supplement any filing affected by the non-responsive or incomplete response when the information becomes available.

VI. COMMUNICATIONS

Communications among the Parties may either be through counsel or through the persons designated below:

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**VII.
GENERAL**

These procedures are consistent with the orderly conduct of this docket. Pursuant to § 6-61-37 of the Commission's Rules of Practice and Procedure, the Prehearing Order shall control the subsequent courses of the proceedings, unless modified at or prior to the hearing to prevent manifest injustice.

The Commission reserves the right, due to the complexities of the case, to require workpapers (or other information) to be submitted for the record.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Prehearing Order No. 20762 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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Karen Higashi

DATED: January 15, 2004

Legal Department

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PUBLIC UTILITIES
COMMISSION

February 20, 2004

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Phone 808.546.3606
Fax 808.546.7621

WRITER'S DIRECT DIAL NUMBER:

808-546-2898

Public Utilities Commission
of the State of Hawaii
465 South King Street, First Floor
Honolulu, Hawaii 96813

Re: Docket No. 03-0272 - In the Matter of Public Utilities Commission Instituting a Proceeding to Implement the Federal Communications Commission's ("FCC") Triennial Review Order, FCC No. 03-36

Honorable Commissioners:

Pursuant to Prehearing Order No. 20762 (n.2) the Parties¹ hereby inform the Public Utilities Commission of the State of Hawaii (the "Commission") that they have reached a stipulation on a resolution of the two issues contained therein.² The Parties agree as follows:

1. The Commission need not conduct any impairment or other related reviews at this time, including any review of the appropriate cross over point between enterprise and mass-market customers, and the Parties waive any right to such a proceeding.
2. Instead, any review of the cross over point between mass-market and enterprise customers, shall be conducted only in the context of a general proceeding initiated by the

¹ The "Parties" are the following "TRO Parties" as identified in Prehearing Order No. 20712, together with any persons that the Public Utilities Commission of the State of Hawaii (the "Commission") may authorize to be Parties hereafter: Verizon Hawaii Inc. ("Verizon"), Department of Commerce and Consumer Affairs, Division of Consumer Advocacy, AT&T Communications of Hawaii, Inc., Pacific LightNet, Inc., Time Warner Telecom of Hawaii, L.P. dba Oceanic Communications, the United States Department of Defense and All Other Federal Executive Agencies, Direct Telephone Company Inc., Sandwich Isles Communications, Inc. and MCImetro Access Transmission Services, Inc.

² The two issues are:

1. What is the appropriate cross over point between enterprise and mass-market customers?
2. What type of procedures should be developed to conduct continued reviews for the unbundled loops, transport and switching under §§ 340, 418, 526 and 534 of the Triennial Review Order? Should the procedures include a notification requirement?

Commission *sua sponte* or pursuant to a petition of a telecommunications carrier seeking to challenge the impairment presumptions for enterprise switching or for mass-market switching ("Impairment Proceeding"). Unless and until such an Impairment Proceeding is commenced, no review of the cross over point shall be conducted.

3. As for procedures to conduct future reviews, the parties agree that upon the commencement of any such Impairment Proceeding, notice shall be given to all certificated telecommunications providers in the State. The Parties shall be parties to the Impairment Proceeding, subject to the right of a Party to move the Commission to withdraw itself as a party to the Impairment Proceeding. Interested parties may move to intervene. After the Commission has determined the parties to the Impairment Proceeding ("Impairment Parties"), the Impairment Parties shall meet informally to formulate the issues, a schedule of proceedings and all other procedural matters necessary to govern the conduct of the Impairment Proceeding. Within the time specified by the Commission, the Impairment Parties shall file a stipulated prehearing order or, if no stipulation is reached, separate proposed prehearing orders.
4. The Parties further agree that the FCC's four-line switching "carve-out," which prior to the FCC's *Triennial Review Order* was applicable in density zone one of the top 50 MSAs, *see Triennial Review Order* ¶ 497, does not currently apply in Hawaii. This agreement does not preclude the Parties from advocating a different cross-over point in any subsequent proceeding conducted by the Commission.
5. The parties further agree that in the event there is a subsequent change in the relevant law or applicable rules regarding the FCC's cross-over point or the four-line switching "carve-out," the Parties are not precluded by the terms of this stipulation from advocating and/or implementing any new cross-over point or switching carve-out. Should the rules or their application change, Verizon shall be free to seek to enforce the law as it may stand at that time. In that event, the non-Verizon Parties reserve the right to seek to have the Commission determine issues 1 and 2 in Prehearing Order No. 20762 without an Impairment Proceeding, if such a determination is within the Commission's power and authority.

This stipulation effectively terminates the need for this docket. However, the next event in the schedule of proceedings is the filing of direct testimony on Monday, February 23, 2004. Accordingly, the Parties respectfully request that the Commission approve the stipulation as expeditiously as possible and close this docket. If the Commission is unable to close the docket before February 23, 2004, the Parties request that the Commission suspend the schedule of proceedings so that no direct testimony needs to be filed on that date.

Public Utilities Commission
of the State of Hawaii
February 20, 2004
Page 3

Please do not hesitate to call should you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read 'L. Ueoka', followed by a horizontal line extending to the right.

LESLIE ALAN UEOKA
Assistant General Counsel

c: Service List (attached)

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Docket No. 03-0272

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PUBLIC UTILITIES
COMMISSION

March 12, 2004



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WRITER'S DIRECT DIAL NUMBER:

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Public Utilities Commission
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465 South King Street
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Re: Docket No. 03-0272 - In the Matter of Public Utilities Commission Instituting a Proceeding to Implement the Federal Communications Commission's ("FCC") *Triennial Review Order*, FCC No. 03-36

Honorable Commissioners:

Pursuant to Commission request, enclosed for filing is a Stipulation, signed by all parties, reflecting our agreement as set forth in my letter dated February 20, 2004. The signature for Stephen S. Melnikoff is a facsimile. Mr. Melnikoff, who is based in Arlington, Virginia, has sent his original signature to me via express mail. I will file the original page with Mr. Melnikoff's signature as soon as I receive it.

Very truly yours,

A handwritten signature in cursive script, appearing to read "L. Ueoka", followed by a horizontal line.

LESLIE ALAN UEOKA
Assistant General Counsel

Enclosure

c: Service List

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of)	
)	
PUBLIC UTILITIES COMMISSION)	Docket No. 03-0272
)	
Instituting a Proceeding to Implement the)	
Federal Communications Commission's)	
("FCC") <i>Triennial Review Order</i> , FCC No.)	
03-36.)	
_____)	

STIPULATION
and
CERTIFICATE OF SERVICE

Filed _____, 2004

At _____ o'clock _____.m.

Chief Clerk of the Commission

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of)	
)	
PUBLIC UTILITIES COMMISSION)	Docket No. 03-0272
)	
Instituting a Proceeding to Implement the)	
Federal Communications Commission's)	
("FCC") <i>Triennial Review Order</i> , FCC No.)	
03-36.)	
_____)	

STIPULATION

WHEREAS, on February 20, 2004 Verizon Hawaii Inc. ("Verizon") filed on behalf of the Parties¹ a letter with the Public Utilities Commission of the State of Hawaii (the "Commission") setting forth the terms of the Parties' agreement not to proceed with the docket; and

WHEREAS, the Commission informed Verizon that it requests signatures from all Parties indicating agreement on representations made in the February 20, 2004 letter and that in general, the Commission prefers to have agreements in a pleading format, signed by all Parties;

NOW, THEREFORE, the Parties execute this Stipulation, which is substantively identical to the letter that Verizon filed on February 20, 2004, except that it is signed by all Parties (to preserve the record accurately, the Stipulation is dated the same day as Verizon's letter was dated, February 20, 2004):

¹ The "Parties" are the following "*TRO Parties*" as identified in Prehearing Order No. 20712, together with any persons that the Public Utilities Commission of the State of Hawaii may authorize to be Parties hereafter: Verizon Hawaii Inc., Department of Commerce and Consumer Affairs, Division of Consumer Advocacy, AT&T Communications of Hawaii, Inc., Pacific LightNet, Inc., Time Warner Telecom of Hawaii, L.P. dba Oceanic Communications, the United States Department of Defense and All Other Federal Executive Agencies, Direct Telephone Company Inc., Sandwich Isles Communications, Inc. and MCImetro Access Transmission Services, Inc.

Pursuant to Prehearing Order No. 20762 (n.2) the Parties hereby inform the Commission that they have reached a stipulation on a resolution of the two issues contained therein.² The Parties agree as follows:

1. The Commission need not conduct any impairment or other related reviews at this time, including any review of the appropriate cross over point between enterprise and mass-market customers, and the Parties waive any right to such a proceeding.
2. Instead, any review of the cross over point between mass-market and enterprise customers, shall be conducted only in the context of a general proceeding initiated by the Commission *sua sponte* or pursuant to a petition of a telecommunications carrier seeking to challenge the impairment presumptions for enterprise switching or for mass-market switching ("Impairment Proceeding"). Unless and until such an Impairment Proceeding is commenced, no review of the cross over point shall be conducted.
3. As for procedures to conduct future reviews, the Parties agree that upon the commencement of any such Impairment Proceeding, notice shall be given to all certificated telecommunications providers in the State. The Parties shall be parties to the Impairment Proceeding, subject to the right of a Party to move the Commission to withdraw itself as a party to the Impairment Proceeding. Interested parties may move to intervene. After the Commission has determined the parties to the Impairment Proceeding ("Impairment Parties"), the Impairment Parties shall meet informally to formulate the issues, a schedule of proceedings

² The two issues are:

1. What is the appropriate cross over point between enterprise and mass-market customers?
2. What type of procedures should be developed to conduct continued reviews for the unbundled loops, transport and switching under §§ 340, 418, 526 and 534 of the *Triennial Review Order*? Should the procedures include a notification requirement?

and all other procedural matters necessary to govern the conduct of the Impairment Proceeding. Within the time specified by the Commission, the Impairment Parties shall file a stipulated prehearing order or, if no stipulation is reached, separate proposed prehearing orders.

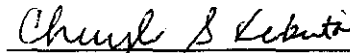
4. The Parties further agree that the FCC's four-line switching "carve-out," which prior to the FCC's *Triennial Review Order* was applicable in density zone one of the top 50 MSAs, *see Triennial Review Order* ¶ 497, does not currently apply in Hawaii. This agreement does not preclude the Parties from advocating a different cross-over point in any subsequent proceeding conducted by the Commission.
5. The Parties further agree that in the event there is a subsequent change in the relevant law or applicable rules regarding the FCC's cross-over point or the four-line switching "carve-out," the Parties are not precluded by the terms of this stipulation from advocating and/or implementing any new cross-over point or switching carve-out. Should the rules or their application change, Verizon shall be free to seek to enforce the law as it may stand at that time. In that event, the non-Verizon Parties reserve the right to seek to have the Commission determine issues 1 and 2 in Prehearing Order No. 20762 without an Impairment Proceeding, if such a determination is within the Commission's power and authority.

This stipulation effectively terminates the need for this docket. However, the next event in the schedule of proceedings is the filing of direct testimony on Monday, February 23, 2004. Accordingly, the Parties respectfully request that the Commission approve the stipulation as expeditiously as possible and close this docket. If the Commission is unable to close the docket before February 23, 2004, the Parties request that the Commission suspend the schedule of proceedings so that no direct testimony needs to be filed on that date.

DATED: Honolulu, Hawaii, February 20, 2004.




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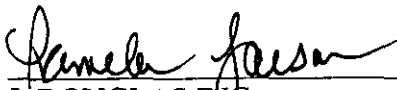
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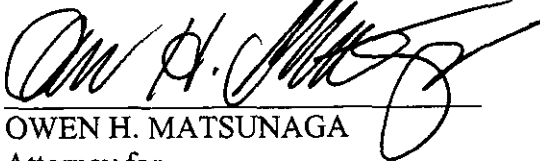
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